

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**JAMES HENDERSON,**

**Defendant.**

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**Case No. 8:05CR309**

**ORDER**

This matter is before the court on the defendant's Motion for Pretrial Release for Chemical Dependency Treatment (#21). After review of the motion, the August 26, 2005 Pretrial Services report, and the September 23, 2005 Memorandum from Pretrial Services, I find the motion should be denied without hearing.

The proposed placement of the defendant at a residential treatment program fails to adequately address the court's concerns as set out in the August 24, 2005 Detention Order (#15), as it does not significantly address the defendant's prior criminal history, which includes seven convictions for failure to appear; two prior felony convictions, including felon in possession of a firearm; and three prior convictions for assault. Additionally, it is clear that the evidence fails to rebut the presumption of detention under 18 U.S.C. § 3142(e).

I find the defendant is both a flight risk and a danger and that no single condition of release or combinations of conditions of release, including those proposed in the motion, mitigate the court's concerns.

**IT IS ORDERED:**

1. The Defendant's Motion for Pretrial Release for Chemical Dependency Treatment (#21) is denied without hearing.

Dated this 26<sup>th</sup> day of September 2005.

BY THE COURT:

S/ F.A. Gossett  
United States Magistrate Judge